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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/196,867 11/20/98 KELSALL

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EXAMINER

DECLLOUX, A

ART UNIT

PAPER NUMBER

1644

DATE MAILED:

21
03/07/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/196,867

Applicant(s)

Kelsall et al

Examiner

DeCloux, Amy

Group Art Unit

1644

☒ Responsive to communication(s) filed on Dec 18, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-8 and 10 is/are pending in the application

Of the above, claim(s) none is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 and 10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) and 12 and

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Claims 1-8 and 10 are pending and are being examined presently.
3. A species election was required under 35 USC 121 in the parent application, and Applicant's election with traverse in Applicant's amendment, filed 11/16/99 (Paper No. 8), of a method of treatment which encompasses the species of autoimmune symptoms and diseases, specifically the subspecies inflammatory bowel disease, and also a method of treatment which encompasses the species of CR3, specifically the subspecies of antibodies to CR3, is acknowledged.

This species requirement is hereby reiterated.

4. The rejections of record can be found in the previous Office Action, mailed 7/3/00 (Paper No. 11). In view of applicant's signed declaration mailed 12-22-00 (Paper No. 19) and IDS mailed 12-22-00 (Paper No. 17), the outstanding rejections have been withdrawn. However, a new grounds of rejection has been applied.
5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the Applicant regards as his invention.
6. Claim 10 rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 10 is indefinite because it depends on canceled claim 9.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in

the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

8. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Karp et al. (US Patent #6,086,876)(issued July 11, 2000, filed 2-6-98 which has priority to 2-7-1997) (IDS of Paper #12, filed 8/23/00).

The '876 patent teaches a method for suppressing IL-12 production as recited in the instant claim 1 (see entire patent, including the Abstract and column 16, lines 3-10), and a method for suppressing an interleukin -12 induced inflammatory response as recited in the instant claim 2 (see entire patent including the Abstract), and a method of reducing the symptoms characteristic of an autoimmune disease as recited in instant claims 3 and 4, (see entire patent including the column 4, lines 31-42), and a method for treating the IL-12 induced inflammatory response of an autoimmune disease in a human as recited in instant claims 5 and 6, and a method for treating the interleukin-12-induced inflammatory response of an inflammatory bowel disease in a human as recited in instant claims 7 and 8 (see entire patent including column 4, lines 31-42), comprising administering a ligand that binds complement receptor 3, wherein said ligand includes antibodies to complement receptor 3, iC3b, ICAM-1, fibrinogen, β -glucan, C3b, as recited in instant claim 10 (see entire patent especially column 3. Lines 60-67, column 4 lines 9-20 and lines 43-51 and column 8, lines 12-30 and lines 58-67 and column 9, and column 15, lines 25-31).

Therefore, the referenced teachings anticipate the claimed invention.

9. Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 89/04174, published May 18, 1989).

Rosen et al teach a method of administering an antibody with specificity for CR3 for the treatment or prophylaxis of inflammatory, autoimmune and hypersensitivity diseases, and in particular inflammatory bowel disease, and consequently its symptoms (see entire article, including the Abstract and second paragraph of page 8 and also page 9) as recited in the instant claims. Though the referenced teachings do not explicitly teach that administration of antibodies directed to CR3 down regulates interleukin-12 in a subject or treats the interleukin-12-induced inflammatory response, down regulation of interleukin-12 in a subject and treatment of an interleukin-12-induced inflammatory response would be inherent properties effected by administration of antibodies against CR3. Therefore the referenced teachings anticipate the claimed invention.

10. No claim is allowed.

11. Any inquiry concerning this communication or earlier communications from the

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Art Unit 1644

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examiner should be directed to Amy DeCloux whose telephone number is (703) 306-5821. The examiner can normally be reached Monday through Friday from 9:00 am to 6:00 pm. a message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Amy DeCloux, Ph.D.
Patent Examiner
Group 1640
Technology Center 1600
March 8, 2001

David A. Saunders
DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT 182/644